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E A

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/977,915 11/25/97 VERNER

P 1267/13

023638 QM22/1031  
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301 SOUTH TRYON STREET  
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EXAMINER

FALIK,A

ART UNIT	PAPER NUMBER
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3765

18

DATE MAILED: 10/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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## Office Action Summary

Application No. <b>08/977,915</b>	Applicant(s) <b>Verner et al</b>	
Examiner <b>Andy Falik</b>	Art Unit <b>3765</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Aug 28, 2000.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-23 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-23 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892)

18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Miscellaneous Matters***

The file doesn't include a proper 3.73(b) or "Consent of Assignee" statement. The Consent of Assignee currently in the file lacks the title of the persons signing the consent (or in the alternative, a statement that they are empowered to sign on behalf of the assignee).

The original reissue declaration fails to comply with the requirements of 37 CFR 1.63 and 1.175 in that there is no date for the signatures and post office addresses for the first and second inventors.

Additionally, the declaration fails to state that the first and second inventors are joint inventors of the invention claimed as required by 37 CFR 1.63(a)(4).

Further, the declaration fails to identify the foreign application on which foreign priority is being claimed by specifying the application number, country, day, month, and year of its filing as required by 37 CFR 1.63 (c). This must be done in order to retain the foreign priority claim made in the original patent.

Pursuant to the above claims 1-23 are rejected under 35USC 251 for the defective declaration.

### ***Allowable Subject Matter***

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Claims 1-23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 251, set forth in this Office action.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Any amendatory response to this Office action must comply with the new procedures specified in the revised 37 CFR 1.121.*

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Any inquiry to the merits of this office action or to any specific features of this communication or earlier communications from the examiner other than those of a clerical nature should be directed to the examiner Andy Falik whose telephone number is (703) 308-1283. The examiner can normally be reached on Monday-Thursday from 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Calvert can be reached on (703) 305-1025. The fax phone number for this Group is (703) 305-3590.

Any inquiry of a general nature such as a missing reference or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. Any inquiry relating to the drawings should be directed to the Drafting Branch whose

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telephone number is (703) 305-8404. For all other matters please contact the Group Customer Service Center (703)306-5648.

  
**ANDY FALIK**  
**PRIMARY EXAMINER**  
**GROUP 3765**

AMF

September 23, 2001